IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.MC.No. 1170 of 2007()

CC.142/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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PETITIONERS:

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1. NAJEEB, AGED 38 YEARS, S/O. SULAIMAN
   EDAVANAKKAL HOUSE, SANTHIPURAM P.O.
   S.N. PURAM VILLAGE, KODUNGALLUR TALUK
   THRISSUR DIST.

2. SULAIMAN, AGED 78 YEARS, S/O. KADAR
   DO. DO.

3. ASHRAF, AGED 40 YEARS, S/O. SULAIMAN
   DO. DO.

BY ADV. SRI.BABU KARUKAPADATH
SMT.VAHEEDA BABU
SRI.K.A.NOUSHAD

RESPONDENTS:

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1. STATE OF KERALA, REP. BY STATION
   HOUSE OFFICER, MATHILAKAM POLICE STATION
   (FIR NO.681/05, CC 142/06 JFCM COURT,
   KODUNGALLUR) REP. BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

2. SHAHABANATH NIZAM, D/O. LATE YOUSEF
   MALIEKKAL HOUSE, ERNAKULAM VILLAGE
   KANAYANNUR TALUK, ERNAKULAM DIST.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB
R2 BY ADV. SHRI. K.A. JALEEL

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1170 of 2007

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Dated this the 12th day of April, 2007

O R D E R

The petitioners are husband, father-in-law and brother-in-law of the second respondent/defacto complainant. Cognizance has been taken for the offences punishable, inter alia, under Section 498A I.P.C. on the basis of a final report submitted by the police. A crime was registered initially on the basis of the complaint filed by the defacto complainant before the learned Magistrate under Section 156(3) Cr.P.C. The petitioners have now come before this Court along with the second respondent to apprise this court of the fact that the parties have settled their disputes harmoniously. The marriage has been dissolved. All payments due under law have been made. The matter has been settled. The second respondent has compounded the offences allegedly committed by the petitioners. In these circumstances it is prayed that powers under Section 482 Cr.P.C. may be invoked to prematurely terminate the proceedings, which has now lost its relevance and meaning.

2. The 2nd respondent has entered appearance through counsel. The learned counsel for the 2nd respondent vouches that Annex. 4 agreement has been executed and its terms complied with.

3. I am satisfied from the submissions made at the Bar and the specific statement made by the learned counsel for the second respondent that the matter has been settled between the parities and the 2nd respondent/defacto complainant has compounded the offences alleged against the petitioners. The composition can be accepted, if the same is legally permissible.

4. The offence under Section 498A I.P.C. is not compoundable. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I am satisfied that the dictum therein is squarely applicable and can be invoked to prematurely terminate the proceedings against the petitioners.

5. This Crl.M.C. is hence allowed. C.C.No. 142 of 2006 pending before the J.F.C.M. Court, Kodungallur, against the petitioners is hereby quashed.

(R. BASANT)
Judge

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